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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 23

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

New Rules

■ IMMUNIZATION RECORDS

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled Immunization Registry Code (77 IAC 689; 38 Ill Reg 20602) effective 5/22/15 implementing the Immunization Data Registry Act, which establishes a Statewide database of immunization records that may be released to health care providers and other entities that enroll as users. The rule specifies the information to be contained in the registry, the purposes for which this information may be used, procedures for obtaining information from the registry, and provisions for keeping patient information confidential. An individual, or the parent or guardian of a minor, may access his or her own records and may also sign an opt-out form requesting that the record not be

retrievable by anyone other than a specific provider. Entities that may enroll as users include health care providers, local health departments, DPH employees, K-12 schools, colleges and universities, child care centers, other states' immunization data registries, and the Department of Healthcare and Family Services or managed care entities

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contracted with DHFS. Any non-health related use of registry data is prohibited. Registry data may be accessed and released by DPH without the prior consent of patients in the event of a public health emergency (e.g., an outbreak of a vaccine-preventable disease). Those affected by this rulemaking include health care providers,

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Proposed Rulemakings

■ MENTAL HEALTH

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Medicaid Community Mental Health Services Program (59 IAC 132; 39 Ill Reg 7763) updating references to the International Classification of Diseases (ICD) and the Diagnostic and Statistical Manual of Mental Disorders (DSM) to their most recent editions (ICD-10-CM and DSM-5).

Questions/requests for copies/comments through 7/20/15: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

■ PCB PROCEDURES

The POLLUTION CONTROL BOARD proposed amendments

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NEW RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.

PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.

PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.

■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.

RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Emergency Rules

■ ALCOHOL SERVERS

The ILLINOIS LIQUOR CONTROL COMMISSION adopted emergency amendments to Beverage Alcohol Sellers and Servers Education and Training (BASSET) Programs (77 IAC 3500; 39 Ill Reg 8175) effective 5/21/15 for a maximum of 150 days. A companion proposed rulemaking appears in this week's Illinois Register at 39 Ill Reg 7789. The rulemakings establish procedures for certified BASSET trainers to submit trainee information to the State database pursuant to PA 98-939. All current trainer licenses must be renewed within 30 days after expiration. Among other requirements, BASSET programs must require all trainees to verify by signature his or her full name, date of birth

and mailing address. BASSET certification will expire 3 years after the date of the certification class. Liquor establishments, catering services, and other business that employ alcohol servers are affected by these rulemakings.

Questions/requests for copies/comments on the proposed rulemaking through 7/20/15: Richard Haymaker, LCC, 100 W. Randolph, Suite 7-801, Chicago IL 60601, 312/814-1804.

■ HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to Medical Payment (89 IAC 140; 39 Ill Reg 8137), effective 5/20/15 for

a maximum of 150 days. An identical proposed amendment appears in this week's Illinois Register at 39 Ill Reg 7761. The rulemakings implement Public Act 99-2, which increases inpatient and outpatient provider assessments upon hospitals for the period 4/1/15 through 6/30/15. The increase is intended to generate \$20.25 million in additional inpatient assessments and \$6.75 million in additional outpatient assessments for that period. Hospitals are affected by these rulemakings.

Questions/requests for copies/comments on the proposed rulemaking through 7/20/15: Mollie Zito, HFS, 201 S. Grand Ave. 3rd Fl., Springfield IL 62763, 217/782-1233, HFS.Rules@illinois.gov

Proposed Rules

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to General Rules (35 IAC 101; 39 Ill Reg 7791), Enforcement (35 IAC 103; 39 Ill Reg 7842), Regulatory Relief Mechanisms (35 IAC 104; 39 Ill Reg 7849), Proceedings Pursuant to Specific Rules or Statutory Provisions (35 IAC 106; 39 Ill Reg 7857) and Administrative Citations (35 IAC 108; 39 Ill Reg 7864), amending various procedural rules. These rulemakings address procedures for out of State attorneys, service of filings, and administrative citations under the Public Water Supply Operations Act and Electronic Products Recycling and Reuse (EPRR) Act. Amendments to Parts 101, 103,

106 and 108 replace earlier proposed amendments (published on 3/6/15 and later withdrawn) to reflect EPA's request that administrative citations under the EPRR Act be included in these procedural rules. The proposed amendments to Part 104 clarify the decision deadline for variance requests.

Requests for copies/comments on the 4 PCB rulemakings through 7/20/15: John Thierriault, Clerk, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-3620. Questions may be directed to Daniel Robertson at the same address, 312/814-6931,

Daniel.Robertson@illinois.gov. Please reference docket R15-20. Copies of the Board's opinion and order, as well as copies of all docket-related documents and public comments, can be obtained from <http://www.ipcb.state.il.us>.

■ IGB CORRECTION

The ILLINOIS GAMING BOARD adopted an expedited correction to Video Gaming (General) (11 Ill Adm Code 1800; 39 Ill Reg 8183) restoring Section 1800.250(s), effective 11/21/12. This subsection was inadvertently omitted when a subsequent rulemaking was adopted.

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schools, day care centers and local health departments.

Questions/requests for copies: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ REAL ESTATE APPRAISERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to Real Estate Appraisers Licensing (68 IAC 1445; 39 Ill Reg 1362), effective 6/1/15, updating the Part to the current Uniform Standards of Professional Appraisal Practice (USPAP) and Appraisal Qualifications Board (AQB) standards and implementing a Public Act that requires a fingerprint-based criminal background check and review of the criminal record, if one exists, for appraisal license applicants. The rulemaking establishes a prerequisite (changed since 1st Notice from “conditional”) education course to be completed before an initial associate real estate trainee appraiser license will be issued on or after 1/1/15. Applicants must complete the 3 hr. ILST-15 AQB Supervisor-Trainee Course or the 6 hr. ILST-15 Supervisor-Trainee Course. If the applicant completes the 3 hr. course, he/she has one year to complete either the 3 hr. Illinois-specific course or the 6 hr. course. The renewal fee for education providers is being lowered from

\$500 to \$250. DFPR will require all applicants for licensure to submit fingerprints to the Department of State Police. DFPR will determine whether an applicant with a criminal record is fit to be licensed, based on factors such as whether the crime is one of armed violence or moral turpitude, related to the real estate professions, or if more than 10 years have elapsed since the completion of the sentence. DFPR will also consider whether the applicant has been sufficiently rehabilitated based on factors such as the completion of probation or parole and, if the applicant did not receive parole, whether 10 years have elapsed since the final discharge and there have not been any additional convictions. Any of the following listed factors outweigh a presumption of rehabilitation: lack of compliance with terms of punishment, unwillingness to undergo any medical treatment/counseling, falsifying the application, or failing to furnish additional information or appearing for a meeting with the Department. DFPR will not consider juvenile adjudications, arrests that did not lead to a conviction, convictions overturned by a higher court or convictions that have been pardoned or expunged. If the applicant is found unfit for licensure, DFPR will send a notice to the applicant with a statement of why it made the decision. The applicant may request a hearing within 20 days after the date the notice was mailed or personally served.

DFPR will schedule an informal conference at least 20 days before the hearing. Changes since 1st Notice include addition of provisions for an administrative warning letter to appraisers, which may be issued with or without a compliance agreement and is intended to remedy problems that could lead to an appraiser’s losing licensure. Real estate appraisers and course providers may be interested in this rulemaking.

Questions/requests for copies: Craig Cellini, 320 W. Washington, 3rd Floor, Springfield IL 62786, 217/785-0813.

■ DRIVERS’ LICENSES

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; 39 Ill Reg 663) effective 5/21/15 requiring cited drivers (those who have been requested to re-test) who are involved in a car accident during the driving exam to submit a medical report to the Illinois Medical Advisory Board. The Board will determine whether the driver is medically fit to drive and may refer the driver to a rehabilitation specialist. The rulemaking also adds Firearm Owner’s Identification (FOID) cards and Department of Human Services-issued cards (e.g., Medicaid, Link) to the list of documents not acceptable as proof of residency for obtaining driver’s licenses or instruction permits (including Visa status

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New Rules

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Temporary Visitor Driver's Licenses and permits) and removes FOID cards from the list of acceptable residency documents.

Questions/requests for copies: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Pay Plan (80 IAC 310; 39 Ill Reg 587), effective 5/22/15, implementing a Public Act, a collective bargaining agreement, and decisions of the Illinois Labor Relations Board and Civil Service Commission. A provision implemented by emergency rule on 12/26/14 (39 Ill Reg 708) excludes the attorney assistant function at the Pollution Control Board from an AFSCME bargaining unit, in accordance with an ILRB ruling. Other proposed provisions implement an ILRB unit clarification assigning seasonal Department of Transportation highway maintainers in Kankakee County to a Teamsters bargaining unit; assign a pay grade to the human resources trainee title; remove the title of arbitrator from a list of those subject to the Personnel Code (PA 97-18 provides that arbitrators shall be appointed by the Governor with Senate approval); add new titles established by the Civil Service

Commission and remove obsolete titles abolished by the Commission; and clarify pay rates for shift supervisors at Department of Corrections work camps.

Questions/requests for copies: Jason Doggett, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, e-mail: CMS.PayPlan@illinois.gov

■ ENDANGERED SPECIES

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to Illinois List of Endangered and Threatened Fauna (17 IAC 1010; 39 Ill Reg 2501) and Illinois List of Endangered and Threatened Flora (17 IAC 1050; 39 Ill Reg 2517), both effective 5/19/15, that add and remove various species of plants and animals from the Illinois endangered and threatened species lists. The rulemakings also clarify that any species classified by the federal government as endangered or threatened is automatically classified as an Illinois endangered/threatened species even if it is not listed in either Part. Changes to Part 1010 include reclassifying the barn owl as threatened rather than endangered; removing the peregrine falcon from the threatened list; and adding the Eastern small-footed bat and Northern long-eared bat to the threatened mammals list. Changes to Part 1050 add or remove various species of flowers and grasses from the

endangered and threatened lists. Since 1st Notice DNR has corrected the scientific and common names of some of the listed species in both Parts. These rulemakings may affect not-for-profits, municipalities, small landowners and small businesses involved in conservation operations. The rulemakings may also affect entities engaged in alteration/construction in areas where endangered/threatened species are present.

Questions/requests for copies of the 2 DNR rulemakings: Shelly Knuppel, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

■ ELECTIONS

The STATE BOARD OF ELECTIONS proposed amendments to Campaign Financing (26 IAC 100; 39 Ill Reg 2056) and Practice and Procedure (26 IAC 125; 39 Ill Reg 2106) implementing provisions of Public Act 97-766, which amended the Illinois Campaign Finance Act. The Part 100 rulemaking implements new provisions for independent expenditure committees, which fund advocacy efforts independent from those directed or coordinated by a particular candidate. Independent expenditures now may include those made in support of, or in opposition to, public policy referendum votes. The

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New Rules

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rulemaking also clarifies the election cycles for candidates running in consolidated primary and general elections and establishes procedures for political committees that support candidates running for multiple offices. Procedures are also established for political committees that were organized to support public officials who subsequently left office, or to support officeholders or candidates who have since died. Other provisions concern prohibited contributions by business entities who contract with the State; civil penalties against committees that exceed

statutory contribution limits; conditions under which a political party committee may receive contributions for a primary election; and exemptions from contribution limits that apply to self-funding candidates and independent expenditure committees. Numerous changes since 1st Notice include higher contribution limits; clarification of how these regulations apply to municipal/runoff elections in the City of Chicago and ward or township committeemen in Cook County; and clarifications of issues such as changes in election cycles. Amendments to Part 125 establish penalties for independent expenditure

committees who make contributions not allowed by law; allow documents and motions to be filed by e-mail if all parties agree; and make technical changes regarding notice of penalties and third party complaints. Those affected by these rulemakings include candidates for public offices and political fundraising organizations.

Questions/requests for copies of the 2 SBEL rulemakings: Kenneth R. Menzel, SBEL, 2329 S. MacArthur Blvd., Springfield IL 62708, 217/782-4141, fax 217/782-5959, kmenzel@elections.il.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the Committee's June 16, 2015 meeting in Chicago. Other items that have not been listed in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be sent to JCAR using the contact information on page 1.

DEPT OF HEALTHCARE AND FAMILY SERVICES

Hospital Services (89 IAC 148) proposed 12/26/14 (38 Ill Reg 23861)

DEPT OF PUBLIC HEALTH

Food Service Sanitation Code (77 IAC 750) proposed 4/3/15 (39 Ill Reg 4865)

DEPT OF NATURAL RESOURCES

Recreational Trails Program (17 IAC 3090) proposed 4/10/15 (39 Ill Reg 5325)

DEPT OF TRANSPORTATION

Airport Hazard Zoning (92 IAC 16) proposed 3/27/15 (39 Ill Reg 4333)

Fairfield Municipal Airport Hazard Zoning Regulations (Repealer) (92 IAC 41)
proposed 3/27/15 (39 Ill Reg 4865)